REMARKS

Reconsideration of the present application is respectfully requested. Claims 1 and 19 have been amended. No new matter has been added.

Obviousness-Type Double-Patenting

Filed herewith is a terminal disclaimer, which Applicants believe overcomes the rejection for obviousness-type double patenting.

Objections to the Specification

The Examiner objected to the disclosure on the basis that the Detailed Description section allegedly contains significant amounts of known prior art (Office Action, pages 3-4). Applicants respectfully disagree that the Detailed Description section contains any significant amount of description of known prior art. Further, any description of known prior art that may be present in the Detailed Description is not a significant portion of the description. Regardless, Applicants are not aware of any rule, statute, or other law that would prohibit inclusion of prior art in the Detailed Description of the invention section, even assuming the Examiner's contention were correct. If the Examiner intends to maintain this objection, the Examiner should: 1) specifically identify such a requirement, 2) specifically identify the text in the Detailed Description section that is considered to be known prior art, and 3) cite prior art references that clearly support the Examiner's contention. Absent such a showing, Applicants respectfully decline the Examiner's invitation to amend the description in this regard.

The title was objected to as not being descriptive. Applicants have amended the title substantially as suggested by the Examiner.

Objection to Drawings

The Examiner contends "that only that which is old is illustrated" in Figure 1 (Office Action, p. 4). However, that contention is not supported in the Office Action. Therefore, Applicants respectfully decline to amend Figure 1 as suggested by the Examiner, in the absence of any support for that contention.

Claim Rejections

Section 112 Rejections

Claims 13-15, 17, 18, 33, 34, 36, 37, 47-49, 51 and 51 stand rejection under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the Examiner contends that the term "data map" is a relative term. Applicants respectfully disagree.

The term "data map" is <u>not</u> a relative term, and in fact, Applicants are unable to see how the Examiner could interpret it as such. A relative term is a term which has no meaning unless the term is used within the context of a comparison or relationship between two things, states, etc.; for example, "faster" is a relative term, because in order for it to have meaning, it must at least implicitly answer the question, "Faster <u>than</u> what?"). Although a data map can describe a relationship, the <u>term</u> "data map" is not relative, because the term "data map" has meaning even if it is not used in the context of a comparison or relationship. Thus, the term "data map" is not relative and is clear,

especially when the whole claim is read. Furthermore, the Examiner should bear in mind that "[b]readth of a claim is not to be equated with indefiniteness." MPEP 2173.04, citing In re Miller, 441 F.2d 689, 169 U.S.P.Q. 597 (CCPA 1971). Therefore, Applicants respectfully request that this rejection be withdrawn.

Section 103 Rejections

The present application includes three independent claims, i.e., claims 1, 19 and 38, which stand rejected under 35 U.S.C. § 103(a) based on U.S. Patent no. 6,438,630 of DeMoney ("DeMoney") in view of U.S. Patent no. 6,499,060 of Wang et al. ("Wang"). Applicants respectfully traverse the rejections. Any amendments to the claims are made only to correct minor informalities, not in response to the rejections or to comply with any statutory requirement of patentability. No amendments are believed to be necessary.

The Examiner admits that DeMoney fails to disclose a prediction model to predict the streaming of blocks (Office Action, p. 6). However, the Examine contends that Wang discloses such a feature, and that it would be obvious to combine the teachings of Wang with the teachings of DeMoney. Applicants respectfully disagree.

Claim 1 recites:

1. (Currently amended) A system for streaming **a software application** to a client comprising:
      an application library having application files and a prediction model stored therein;
      a streaming manager configured to send the **application files** to a client as a plurality of streamlets, each streamlet corresponding to a particular data block **in a respective application file;** and

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>**a streaming prediction engine** configured **to identify at least one streamlet which is predicted to be most appropriate to send to a given client at a particular time in accordance with the prediction model.** (Emphasis added.)

The present invention, as claimed, relates to the streaming of <u>software applications</u>. In contrast, DeMoney and Wang both relate to <u>multimedia</u> streaming and have nothing to do with streaming of software applications. Hence, neither DeMoney nor Wang discloses a streaming manager configured to send <u>application files</u> to a client as a plurality of streamlets, particularly where each streamlet corresponding to a particular data block <u>in a respective application file</u>.

In addition, contrary to the Examiner's contention, Wang does <u>not</u> disclose or suggest a streaming <u>prediction engine</u> configured to identify at least one streamlet which is predicted to be most appropriate to send to a given client at a particular time in accordance with the prediction model. The "prediction" discussed in Wang refers to data <u>compression/encoding</u>; it has nothing to do with identifying a block or streamlet that is most appropriate to send to a client at a particular time.

It is also important to note that streamed <u>data</u> (e.g., audio and/or video), unlike a software application, is <u>inherently sequential</u> nature (see DeMoney at col. 11, lines 28-31). Hence, there is no need or use for prediction as recited in claim 1 in multimedia streaming techniques such as described in DeMoney and Wang. This is in contrast with <u>software applications</u>, which are <u>not</u> inherently sequential. Thus, DeMoney and Wang, which relate to (inherently sequential) multimedia streaming, <u>teach away</u> from the use of a prediction engine as recited in claim 1.

There is no suggestion or motivation in the prior art to combine the teachings of Wang and DeMoney, and even if there was, doing so would not produce the present invention. For at least the foregoing reasons, therefore, claim 1 and all claims which depend on it are patentable over the cited art.

Independent claims 19 and 38 include limitations similar to those discussed above in claim 1 and, therefore, are also patentable along with their dependent claims for similar reasons.

Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.
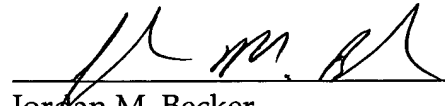
Conclusion

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If any additional fee is required, please charge Deposit Account No. 02-2666.

Respectfully submitted,
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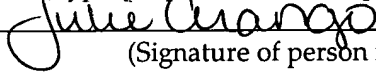Los Angeles, CA 90025-1030
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